

APPEAL NO. 002716

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 13, 2000. The sole issue he was asked to decide was whether the compensable injury that the appellant (claimant) sustained on _____, extended to and included his right shoulder. The hearing officer was not asked to determine whether the claimant sustained a new compensable injury to his right shoulder in the course and scope of his employment.

The hearing officer determined that the claimant's right shoulder injury was not the direct and natural result of his _____, injury. The claimant appealed, arguing that the follow-on nature of his shoulder injury is analogous to the "altered gait" cases. The respondent (carrier) counters by pointing out that the claimant's shoulder condition did not develop until much later than his _____ injury.

DECISION

Affirmed.

The claimant sustained a repetitive trauma injury to his right wrist with a date of injury of _____. The work in which he was engaged involved washing eighteen-wheeler trucks with a high pressure hose. Medical records and testimony establish that the claimant was initially treated in his doctor's office for a ganglion cyst on his wrist. A month later, he continued to have pain and a recurrent ganglion. This was excised and he underwent therapy. He was then returned to work after three months; the evidence includes a release to regular duty on November 13, 1998. The claimant testified that when he returned to his job, he sustained another injury when he dropped the high pressure hose, and that he thought it was at this time that he may have injured his elbow and shoulder. He returned to his treating doctor in January 1999; in May 1999 he was put on light duty, then reevaluated and found to have right carpal tunnel syndrome and cubital tunnel syndrome. Although this was the first mention of elbow involvement, and the treating doctor attributed it in some respect to an ulnar styloid fracture, the carrier stipulated that the claimant's right elbow condition was part of his _____, injury.

By January 2000, the claimant had another treating doctor, Dr. C, and was referred to Dr. S, who put the claimant on part-time, restricted duty. Dr. C's December 1, 1999, notes and his January 21, 2000, report documented forearm and shoulder tendinitis along with his other problems. The claimant eventually had surgery for his cubital tunnel syndrome on March 18, 2000; was taken off work; and then returned to light duty. A June 22, 2000, MRI of the shoulder was consistent with tendinitis and a possible rotator cuff tear. The only medical record tying the claimant's shoulder injury to the _____, injury is the May 17, 2000, report in which Dr. C observed that the shoulder problem was secondary to the resulting weakness and disuse of the claimant's right arm. The claimant testified that he first noticed his shoulder pains after he had been restored back to full duty in November 1998, using the pressure hose.

While we do not necessarily endorse the hearing officer's statement that it is irrelevant to an "overuse" analysis if the involved extremity is the same one as originally injured (as opposed to the opposite extremity), we can affirm the hearing officer's determination that the shoulder injury documented in this case was not part of the original wrist injury within the definition set out in Section 401.011(26). The decision being sufficiently supported, we affirm.

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Judy L. Stephens
Appeals Judge